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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/645,071	08/21/2003	Todd A. Goldstein	COS-03-003	6959

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EXAMINER

SMITH, CREIGHTON H

ART UNIT PAPER NUMBER

2645

DATE MAILED: 04/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/645,071

Applicant(s)

GOLDSTEIN ET AL.

Examiner

Creighton H Smith

Art Unit

2645

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 05 JAN '05.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 11-30 are rejected under 35 U.S.C. 102(b) as being anticipated by Akinpelu et al '792.

Akinpelu et al Abstract discloses number portability and the use of alternate carriers being able to carry a subscriber's phone call when the subscriber's primary carrier is unavailable. In the last sentence of Akinpelu et al Abstract, they disclose that their apparatus allows freedom of movement of subscribers between carriers and geographic relocation without requiring a number change. Akinpelu et al recognize the problem is that there is no sound way which offers LNP and service provider number portability, col. 1, lines 45-48. In col. 2, lines 6-11, Akinpelu et al disclose that their invention allows for a subscriber to identify (choose) alternate terminating carriers if the subscriber's preferred carriers are unavailable.

Fig. 3 of Akinpelu & in col. 3, lines 55-65, shows in Step 303 a determination of whether a geographic number (location) portability is in use in the region where the phone call is made. If so, then a local database will return (from a query made to it by a switch) a preferred carrier. In col. 4, lines 15-23, Akinpelu et al disclose that if the preferred carrier is not available (Step-313), then at Step-317 a determination is made whether the subscriber has specified an alternate carrier. If so, the call is routed to the alternate carrier for completion. Akinpelu anticipates applicant's claim 16 when they

Art Unit: 2645

seek additional information on alternate carriers, by a query to a database (18) by a switch (17). Once Akinpelu's system recognizes that the call is to a ported number, col. 3, lines 54-56, they search for alternate carriers to transport to call if the preferred carrier cannot. In Fig. 8 Akinpelu et al show that the subscriber can complete her phone call to terminal (803) by either local exchange carrier (811) or competitive access provider (813) or through cable TV provider (815). This meets applicant's limitation of responding to a routing query where the response contains the routing information for selectively bypassing a local exchange carrier network serving a called station. For claim 17, Akinpelu shows that the routing carrier could possibly be the cable TV provider. Claim 18 reads upon Akinpelu's disclosure in Fig. 3 that if the preferred communication mechanism (Step-313) is unavailable, then Akinpelu will send another query to find out if the subscriber has specified an alternate carrier (Step-317). For claim 20, Akinpelu shows that the database consulted (952) with the routing query is also known as a SCP, see Fig. 9.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Akinpelu '792 in view of Bergman et al '772.

Akinpelu et al never specifically mention that one of the reasons for rerouting their phone call from a local exchange carrier onto an alternate carrier, such as the

Art Unit: 2645

cable TV carrier, is to avoid long distance/toll charges. However, Bergman et al disclose in cols. 6 & 21, lines 23-24 & 33-36, that in order to avoid toll charges that their phone call could be placed over Internet protocol (VoIP). To have used Bergman's teaching of routing a phone call over VoIP in order to avoid long distance toll charges in Akinpelu et al apparatus would have been obvious to a person having ordinary skill in the art because of the fact that Akinpelu teaches the alternate routing of an LNP phone call to different carriers, and with Bergman's teaching of routing a phone call over VoIP to avoid toll charges the skilled artisan in telephony would have readily recognized that another alternate carrier would be VoIP in order to avoid long distance toll charges.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Akinpelu et al '749.

Any inquiry concerning this communication should be directed to Creighton H Smith at telephone number 571/272-7546.



06.04.05

Creighton H Smith  
Primary Examiner  
Art Unit 2645